

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 16735.1-D2376-54-ne	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP 03/12042	International filing date (day/month/year) 30.10.2003	Priority date (day/month/year) 31.10.2002
International Patent Classification (IPC) or both national classification and IPC H04L29/08		
Applicant T-MOBILE DEUTSCHLAND GMBH et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 5 sheets.

3. This report contains indications relating to the following items:

- I Basis of the opinion
- II Priority
- III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV Lack of unity of invention
- V Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI Certain documents cited
- VII Certain defects in the international application
- VIII Certain observations on the international application

Date of submission of the demand 26.05.2004	Date of completion of this report 19.11.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Cankaya, S Telephone No. +49 89 2399-7005



**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/EP 03/12042

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

2-4 as originally filed
1, 1a received on 27.10.2004 with letter of 25.10.2004

Claims, Numbers

1-16 received on 27.10.2004 with letter of 25.10.2004

Drawings, Sheets

1/1 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- the language of publication of the international application (under Rule 48.3(b)).
- the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- contained in the international application in written form.
- filed together with the international application in computer readable form.
- furnished subsequently to this Authority in written form.
- furnished subsequently to this Authority in computer readable form.
- The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- the description, pages:
- the claims, Nos.:
- the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/EP 03/12042

5. This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-16
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-16
Industrial applicability (IA)	Yes: Claims	1-16
	No: Claims	

2. Citations and explanations

see separate sheet

V. Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Reference is made to the following document/s/:

D1: US 2002/126701

D2: WO 01/97543

D3: WO 01/65334

- 1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1 and 3 does not involve an inventive step in the sense of Article 33(3) PCT.
 - 1.1 The document D1 is regarded as being the closest prior art to the subject-matter of claim 1, and discloses (the references in parentheses applying to this document):

Internet protocol based multimedia system defined by means for combining location information with media components during information exchange, which includes a transmission of messages, between a communication center and peripheral units, wherein the means for location information and the media components are provided by at least a mobile communication network, and the communication center providing the transmission of messages via a mobile community service (paragraphs 11, 12, 26, 28, 30, 37, 65, 71, 85, 86, 123).

The difference between the system and the method set out in claim 1 and that of in D1 is that, according to claim 1:

the region in which the message shall be distributed is specified by different distribution classes, relating to a range of distance around the location of the peripheral unit.

The technical problem to solved by the present invention, therefore, is how to limit the communication distance between subscribers in an Internet protocol based multimedia system.

The solution proposed in claim 1 of the present application cannot be considered as involving an inventive step (Article 33(3) PCT) for the following reasons:

In document D1, an inviting user wants to exchange content with an invited user. Upon the request from the inviting user, a presence query is made by a presence server to locate the invited user, and then it is decided whether to send the content to the invited user or not (paragraph 26). Document D1 discloses a system where the distance between the subscribers is used as a criteria in deciding whether to send messages between subscribers or not. Categorisation of these distances, such as regions, does not provide an inventive step over the disclosure of document D1.

Using distance criteria is also generally known in the art, see e.g. document **D2** (paragraphs 29, 47, 48) where predetermined distance criterion is used when connecting subscribers of a mobile communication network.

- 1.2 The above finding also applies to claim 3 which corresponds to claim 1.
- 2 Dependent claims do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect to novelty or inventive step. The additional features of claims about different types of messages, specifying media types, web access, application menu, active/passive modes are disclosed in D1 (paragraphs 123, 125, 226, 241-243; Figures 14, 15). Specifying a region, contact aims and personal interests are disclosed in D3 (page 11, lines 17-26; page 33, lines 25-30).

Remarks:

- 3 The application does not meet the requirements of Article 6 PCT.
 - 3.1 In claim 1, "makes use of" casts doubts as to whether the means for location information and the communication center belong to the scope of protection or not.
 - 3.2 In claim 1, the wording "provided by" casts doubt as to whether protection is sought for an Internet protocol based multimedia system or for a mobile communications network comprising an Internet protocol based multimedia system.
 - 3.3 In claim 1, the relative vague terms "walking distance" and "city wide" cause

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/EP 03/12042

unclarity. The definitions given for those vague terms are also based on relative scales.

- 3.4 Claim 3 is defined by the result to be achieved without clearly mentioning method steps which lead to the result. It is not clear whether the method steps of sending and receiving contact data are in the scope of protection or not (see Guidelines, Chapter V, 5.35).
- 3.5 Claim 3 includes two characterizing portions. It is not clear which part of the claim belongs to the preamble.